

**§ 410.101 Introduction.**

The regulations in this part 410 (Regulation No. 10 of the Social Security Administration) relate to the provisions of part B (Black Lung Benefits) of title IV of the Federal Coal Mine Health and Safety Act of 1969, as enacted December 30, 1969, as amended by the Black Lung Benefits Act of 1972, and as may hereafter be amended. The regulations in this part are divided into the following subparts according to subject content:

(a) This subpart A contains this introduction, general provisions, and provisions relating to definitions and the use of terms.

(b) Subpart B of this part relates to the requirements for entitlement, duration of entitlement, filing of claims, and evidence.

(c) Subpart C of this part describes the relationship and dependency required for widows, children, parents, brothers, and sisters, and relationship and dependency requirements which affect the benefit amounts of entitled miners and widows.

(d) Subpart D of this part provides standards for determining total disability and death due to pneumoconiosis.

(e) Subpart E of this part relates to payment of benefits, payment periods, benefit rates and their modification, representative payees, and overpayments and underpayments.

(f) Subpart F of this part relates to determinations of disability and other determinations, the procedures for administrative review, finality of decisions, and the representation of parties.

[36 FR 23752, Dec. 14, 1971, as amended at 37 FR 20635, Sept. 30, 1972]

**§ 410.110 General definitions and use of terms.**

For purposes of this part, except where the context clearly indicates otherwise, the following definitions apply:

(a) *The Act*, means the Federal Coal Mine Health and Safety Act of 1969 (Pub. L. 91-173), enacted December 30, 1969, as amended by the Black Lung Benefits Act of 1972 (Pub. L. 92-303), enacted May 19, 1972, and as may hereafter be amended.

(b) *Benefit* means the black lung benefit provided under part B of title IV of the Act to coal miners, to surviving widows of miners, to the surviving child or children of a miner, or of a widow of a miner, to the surviving dependent parent or parents of a miner, and to the surviving dependent brother(s) or sister(s) of a miner.

(c) *Secretary* means the Secretary of Health, Education, and Welfare.

(d) *Commissioner* means the Commissioner of Social Security.

(e) *Administration* means the Social Security Administration in the Department of Health, Education, and Welfare.

(f) *Appeals Council* means the Appeals Council of the Bureau of Hearings and Appeals in the Social Security Administration or such member or members thereof as may be designated by the Chairman.

(g) *Administrative Law Judge* means an Administrative Law Judge in the Bureau of Hearings and Appeals of the Social Security Administration.

(h) *Coal mine* means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities.

(i) *Underground coal mine* means a coal mine in which the earth and other materials which lie above the natural deposit of coal (overburden) is not removed in mining. In addition to the natural deposits of coal in the earth, the underground mine includes all land, buildings and equipment appurtenant thereto.

(j) *Miner* or *coal miner* means any individual who is working or has worked as an employee in a coal mine, performing functions in extracting the coal or preparing the coal so extracted.

(k) *The Nation's coal mines* comprise all coal mines as defined in paragraph

(h) of this section located in a State as defined in paragraph (l) of this section.

(l) *State* includes a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and prior to January 3, 1959, and August 21, 1959, respectively, the Territories of Alaska and Hawaii.

(m) *Employee* means an individual in a legal relationship (between the person for whom he performs services and himself) of employer and employee under the usual common-law rules.

(1) Generally, such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the means by which that result is accomplished; that is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. The right to discharge is also an important factor indicating that the person possessing that right is an employer. Other factors characteristic of an employer, but not necessarily present in every case, are the furnishing of tools and the furnishing of a place to work to the individual who performs the services. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor. An individual performing services as an independent contractor is not as to such services an employee under the usual common-law rules.

(2) Whether the relationship of employer and employee exists under the usual common-law rules will in doubtful cases be determined upon an examination of the particular facts of each case.

(n) The *Social Security Act* means the Social Security Act (49 Stat. 620) as amended from time to time.

(o) *Pneumoconiosis* means: (1) A chronic dust disease of the lung arising out of employment in the Nation's coal mines, and includes coal workers' pneumoconiosis, anthracosilicosis, anthracosis, anthrosilicosis, massive pulmonary fibrosis, progressive massive fibrosis, silicosis, or silicotuberculosis, arising out of such employment.

For purposes of this subpart, the term also includes the following conditions that may be the basis for application of the statutory presumption of disability or death due to pneumoconiosis under the circumstances prescribed in section 411(c) of the Act:

(2) Any other chronic respiratory or pulmonary impairment when the conditions are met for the application of the presumption described in § 410.414(b) or § 410.454(b), and

(3) Any respirable disease when the conditions are met for the application of the presumption described in § 410.462.

(p) A *workmen's compensation law* means a law providing for payment of compensation to an employee (and his dependents) for injury (including occupational disease) or death suffered in connection with his employment. A payment funded wholly out of general revenues and paid (without regard to insurance principles) solely on account of the financial need of the miner and his family, shall not be considered a payment under a *workmen's compensation law*.

(q) Masculine gender includes the feminine, and the singular includes the plural.

(r) *Beneficiary* means a miner or a surviving widow, child, parent, brother, or sister, who is entitled to a benefit as defined in paragraph (b) of this section.

[35 FR 5623, Apr. 7, 1970, as amended at 37 FR 20635, Sept. 30, 1972]

#### **§ 410.120 Disclosure of program information.**

Disclosure of any file, record, report, or other paper, or any information obtained at any time by the Department of Health, Education, and Welfare, or any officer or employee of that Department, or any person, agency, or organization with whom the Administration